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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FREDA SUSSMAN,

Plaintiff,

v.

ARMELIA SANI, M.D., SHILEY EYE  
CENTER, UCSD MEDICAL CENTER,  
REGENTS OF THE UNIVERSITY OF  
CALIFORNIA, HEALTH NET OF  
CALIFORNIA, INC., HEALTH NET  
SENIORITY PLUS, LINDA BEACH,  
HAIDEE GUTIERREZ,

DOES 1 through 40, inclusive,

Defendants

Case No. 08CV392 H BLM

MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF EX  
PARTE MOTION FOR ORDER  
SHORTENING TIME TO HAVE MOTION  
TO REMAND HEARD

Date: 4/14/08

Time: 10:30 a.m.

Dept. 13

Magistrate: Barbara Major

I.

**THE COURT HAS THE RIGHT TO SHORTEN TIME IN WHICH TO HAVE A  
MOTION HEARD**

For good cause, the Court may shorten the time in which a motion may be heard. FRCP

FILED

08 MAR 17 AM 11:11

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY:

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1 6(d). Good cause for such an order is when a party may suffer irreparable injury if her  
2 opposition may not be timely heard. FRCP 65; U.S. v. Fitch (9<sup>th</sup> Cir. 1973) 472 F. 2d. 548,9.  
3 The court should grant the motion if the moving party has acted diligently. See, e.g., Mission  
4 Power Engineering Co. v. Continental Ins. Co. (CD Cal 1995) 883 F. Supp. 488,92.

5 The Plaintiff's action was filed in State court on 11/17/07. Defendant HEALTH NET OF  
6 CALIFORNIA, INC.'s Notice of Removal was filed on March 3, 2008. The Plaintiff's Motion to  
7 Remand was timely filed on March 13, 2008. Two days prior to Plaintiff's Motion to Remand  
8 being filed, Defendant HEALTH NET OF CALIFORNIA, INC.'s Motion to Dismiss the  
9 Plaintiff's Complaint was received by the Plaintiff. Defendant HEALTH NET OF  
10 CALIFORNIA, INC.'s Motion to Dismiss has a hearing date of April 7, 2008. The Plaintiff's  
11 position is that the case should be remanded to State Court, not dismissed. Insofar as the  
12 Plaintiff's Motion to Remand must be determined before Defendant HEALTH NET OF  
13 CALIFORNIA, INC.'s Motion to Dismiss, the Plaintiff requests this Court to schedule the  
14 Plaintiff's Motion to Remand for April 7, 2008 to be heard concurrently with Defendant  
15 HEALTH NET OF CALIFORNIA, INC.'s Motion to Dismiss.

16 In the alternative, the plaintiff requests that the court move the hearing date of April 7, 2008  
17 on the Defendant HEALTH NET OF CALIFORNIA, INC.'s Motion to Dismiss to April 14,  
18 2008 at 10:30 a.m. to be heard concurrently with the plaintiff's motion to remand. The Court  
19 has the right to extend the time in which a motion is heard. FRCP 6(b).

20  
21  
22 Dated:

3/13/08

Respectfully Submitted:

HAYWORTH AND SUSSMAN



Nancy Sussman,  
Attorney for Plaintiff